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interests under the control of the sponsor.

(3) *Record maintenance.* A sponsor must retain the disclosures required in paragraph (k)(1) of this section in its records and must provide the disclosure upon request to the Commission and its appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding.

(1) *Early amortization of all outstanding series.* A sponsor that organizes a revolving pool securitization that relies on this § 244.5 to satisfy the risk retention requirements of § 244.3, does not violate the requirements of this part if its seller's interest falls below the level required by § 244.5 after the revolving pool securitization commences early amortization, pursuant to the terms of the securitization transaction documents, of all series of outstanding investor ABS interests, if:

(1) The sponsor was in full compliance with the requirements of this section on all measurement dates specified in paragraph (c) of this section prior to the commencement of early amortization;

(2) The terms of the seller's interest continue to make it *pari passu* with or subordinate in identical or varying amounts to each series of outstanding investor ABS interests issued with respect to the allocation of all distributions and losses with respect to the securitized assets;

(3) The terms of any horizontal interest relied upon by the sponsor pursuant to paragraph (g) to offset the minimum seller's interest amount continue to require the interests to absorb losses in accordance with the terms of paragraph (h) or (i) of this section, as applicable; and

(4) The revolving pool securitization issues no additional ABS interests after early amortization is initiated to any person not a wholly-owned affiliate of the sponsor, either at the time of issuance or during the amortization period.

§ 244.6 Eligible ABCP conduits.

(a) *Definitions.* For purposes of this section, the following additional definitions apply:

100 percent liquidity coverage means an amount equal to the outstanding balance of all ABCP issued by the conduit plus any accrued and unpaid interest without regard to the performance of the ABS interests held by the ABCP conduit and without regard to any credit enhancement.

ABCP means asset-backed commercial paper that has a maturity at the time of issuance not exceeding 397 days, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

ABCP conduit means an issuing entity with respect to ABCP.

Eligible ABCP conduit means an ABCP conduit, *provided that:*

(1) The ABCP conduit is bankruptcy remote or otherwise isolated for insolvency purposes from the sponsor of the ABCP conduit and from any intermediate SPV;

(2) The ABS interests acquired by the ABCP conduit are:

(i) ABS interests collateralized solely by assets originated by an originator-seller and by servicing assets;

(ii) Special units of beneficial interest (or similar ABS interests) in a trust or special purpose vehicle that retains legal title to leased property underlying leases originated by an originator-seller that were transferred to an intermediate SPV in connection with a securitization collateralized solely by such leases and by servicing assets;

(iii) ABS interests in a revolving pool securitization collateralized solely by assets originated by an originator-seller and by servicing assets; or

(iv) ABS interests described in paragraph (2)(i), (ii), or (iii) of this definition that are collateralized, in whole or in part, by assets acquired by an originator-seller in a business combination that qualifies for business combination accounting under GAAP, and, if collateralized in part, the remainder of such assets are assets described in paragraph (2)(i), (ii), or (iii) of this definition; and

(v) Acquired by the ABCP conduit in an initial issuance by or on behalf of an intermediate SPV:

(A) Directly from the intermediate SPV,

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(B) From an underwriter of the ABS interests issued by the intermediate SPV, or

(C) From another person who acquired the ABS interests directly from the intermediate SPV;

(3) The ABCP conduit is collateralized solely by ABS interests acquired from intermediate SPVs as described in paragraph (2) of this definition and servicing assets; and

(4) A regulated liquidity provider has entered into a legally binding commitment to provide 100 percent liquidity coverage (in the form of a lending facility, an asset purchase agreement, a repurchase agreement, or other similar arrangement) to all the ABCP issued by the ABCP conduit by lending to, purchasing ABCP issued by, or purchasing assets from, the ABCP conduit in the event that funds are required to repay maturing ABCP issued by the ABCP conduit. With respect to the 100 percent liquidity coverage, in the event that the ABCP conduit is unable for any reason to repay maturing ABCP issued by the issuing entity, the liquidity provider shall be obligated to pay an amount equal to any shortfall, and the total amount that may be due pursuant to the 100 percent liquidity coverage shall be equal to 100 percent of the amount of the ABCP outstanding at any time plus accrued and unpaid interest (amounts due pursuant to the required liquidity coverage may not be subject to credit performance of the ABS interests held by the ABCP conduit or reduced by the amount of credit support provided to the ABCP conduit and liquidity support that only funds performing loans or receivables or performing ABS interests does not meet the requirements of this section).

Intermediate SPV means a special purpose vehicle that:

(1)(i) Is a direct or indirect wholly-owned affiliate of the originator-seller; or

(ii) Has nominal equity owned by a trust or corporate service provider that specializes in providing independent ownership of special purpose vehicles, and such trust or corporate service provider is not affiliated with any other transaction parties;

(2) Is bankruptcy remote or otherwise isolated for insolvency purposes

from the eligible ABCP conduit and from each originator-seller and each majority-owned affiliate in each case that, directly or indirectly, sells or transfers assets to such intermediate SPV;

(3) Acquires assets from the originator-seller that are originated by the originator-seller or acquired by the originator-seller in the acquisition of a business that qualifies for business combination accounting under GAAP or acquires ABS interests issued by another intermediate SPV of the originator-seller that are collateralized solely by such assets; and

(4) Issues ABS interests collateralized solely by such assets, as applicable.

Originator-seller means an entity that originates assets and sells or transfers those assets, directly or through a majority-owned affiliate, to an intermediate SPV, and includes (except for the purposes of identifying the sponsorship and affiliation of an intermediate SPV pursuant to this §244.6) any affiliate of the originator-seller that, directly or indirectly, majority controls, is majority controlled by or is under common majority control with, the originator-seller. For purposes of this definition, majority control means ownership of more than 50 percent of the equity of an entity, or ownership of any other controlling financial interest in the entity, as determined under GAAP.

Regulated liquidity provider means:

(1) A depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(2) A bank holding company (as defined in 12 U.S.C. 1841), or a subsidiary thereof;

(3) A savings and loan holding company (as defined in 12 U.S.C. 1467a), provided all or substantially all of the holding company's activities are permissible for a financial holding company under 12 U.S.C. 1843(k), or a subsidiary thereof; or

(4) A foreign bank whose home country supervisor (as defined in §211.21 of the Federal Reserve Board's Regulation K (12 CFR 211.21)) has adopted capital standards consistent with the Capital Accord of the Basel Committee on Banking Supervision, as amended, and

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that is subject to such standards, or a subsidiary thereof.

(b) *In general.* An ABCP conduit sponsor satisfies the risk retention requirement of §244.3 with respect to the issuance of ABCP by an eligible ABCP conduit in a securitization transaction if, for each ABS interest the ABCP conduit acquires from an intermediate SPV:

(1) An originator-seller of the intermediate SPV retains an economic interest in the credit risk of the assets collateralizing the ABS interest acquired by the eligible ABCP conduit in the amount and manner required under §244.4 or §244.5; and

(2) The ABCP conduit sponsor:

(i) Approves each originator-seller permitted to sell or transfer assets, directly or indirectly, to an intermediate SPV from which an eligible ABCP conduit acquires ABS interests;

(ii) Approves each intermediate SPV from which an eligible ABCP conduit is permitted to acquire ABS interests;

(iii) Establishes criteria governing the ABS interests, and the securitized assets underlying the ABS interests, acquired by the ABCP conduit;

(iv) Administers the ABCP conduit by monitoring the ABS interests acquired by the ABCP conduit and the assets supporting those ABS interests, arranging for debt placement, compiling monthly reports, and ensuring compliance with the ABCP conduit documents and with the ABCP conduit's credit and investment policy; and

(v) Maintains and adheres to policies and procedures for ensuring that the requirements in this paragraph (b) of this section have been met.

(c) *Originator-seller compliance with risk retention.* The use of the risk retention option provided in this section by an ABCP conduit sponsor does not relieve the originator-seller that sponsors ABS interests acquired by an eligible ABCP conduit from such originator-seller's obligation to comply with its own risk retention obligations under this part.

(d) *Disclosures—(1) Periodic disclosures to investors.* An ABCP conduit sponsor relying upon this section shall provide, or cause to be provided, to each purchaser of ABCP, before or contempora-

neously with the first sale of ABCP to such purchaser and at least monthly thereafter, to each holder of commercial paper issued by the ABCP conduit, in writing, each of the following items of information, which shall be as of a date not more than 60 days prior to date of first use with investors:

(i) The name and form of organization of the regulated liquidity provider that provides liquidity coverage to the eligible ABCP conduit, including a description of the material terms of such liquidity coverage, and notice of any failure to fund.

(ii) With respect to each ABS interest held by the ABCP conduit:

(A) The asset class or brief description of the underlying securitized assets;

(B) The standard industrial category code (SIC Code) for the originator-seller that will retain (or has retained) pursuant to this section an interest in the securitization transaction; and

(C) A description of the percentage amount of risk retention pursuant to the rule by the originator-seller, and whether it is in the form of an eligible horizontal residual interest, vertical interest, or revolving pool securitization seller's interest, as applicable.

(2) *Disclosures to regulators regarding originator-sellers.* An ABCP conduit sponsor relying upon this section shall provide, or cause to be provided, upon request, to the Commission and its appropriate Federal banking agency, if any, in writing, all of the information required to be provided to investors in paragraph (d)(1) of this section, and the name and form of organization of each originator-seller that will retain (or has retained) pursuant to this section an interest in the securitization transaction.

(e) *Sale or transfer of ABS interests between eligible ABCP conduits.* At any time, an eligible ABCP conduit that acquired an ABS interest in accordance with the requirements set forth in this section may transfer, and another eligible ABCP conduit may acquire, such ABS interest, if the following conditions are satisfied:

(1) The sponsors of both eligible ABCP conduits are in compliance with this section; and

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(2) The same regulated liquidity provider has entered into one or more legally binding commitments to provide 100 percent liquidity coverage to all the ABCP issued by both eligible ABCP conduits.

(f) *Duty to comply.* (1) The ABCP conduit sponsor shall be responsible for compliance with this section.

(2) An ABCP conduit sponsor relying on this section:

(i) Shall maintain and adhere to policies and procedures that are reasonably designed to monitor compliance by each originator-seller which is satisfying a risk retention obligation in respect of ABS interests acquired by an eligible ABCP conduit with the requirements of paragraph (b)(1) of this section; and

(ii) In the event that the ABCP conduit sponsor determines that an originator-seller no longer complies with the requirements of paragraph (b)(1) of this section, shall:

(A) Promptly notify the holders of the ABCP, and upon request, the Commission and its appropriate Federal banking agency, if any, in writing of:

(1) The name and form of organization of any originator-seller that fails to retain risk in accordance with paragraph (b)(1) of this section and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit;

(2) The name and form of organization of any originator-seller that hedges, directly or indirectly through an intermediate SPV, its risk retention in violation of paragraph (b)(1) of this section and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit; and

(3) Any remedial actions taken by the ABCP conduit sponsor or other party with respect to such ABS interests; and

(B) Take other appropriate steps pursuant to the requirements of paragraphs (b)(2)(iv) and (v) of this section which may include, as appropriate, curing any breach of the requirements in this section, or removing from the eligible ABCP conduit any ABS interest that does not comply with the requirements in this section.

§ 244.7 Commercial mortgage-backed securities.

(a) *Definitions.* For purposes of this section, the following definition shall apply:

Special servicer means, with respect to any securitization of commercial real estate loans, any servicer that, upon the occurrence of one or more specified conditions in the servicing agreement, has the right to service one or more assets in the transaction.

(b) *Third-party purchaser.* A sponsor may satisfy some or all of its risk retention requirements under § 244.3 with respect to a securitization transaction if a third party (or any majority-owned affiliate thereof) purchases and holds for its own account an eligible horizontal residual interest in the issuing entity in the same form, amount, and manner as would be held by the sponsor under § 244.4 and all of the following conditions are met:

(1) *Number of third-party purchasers.* At any time, there are no more than two third-party purchasers of an eligible horizontal residual interest. If there are two third-party purchasers, each third-party purchaser's interest must be *pari passu* with the other third-party purchaser's interest.

(2) *Composition of collateral.* The securitization transaction is collateralized solely by commercial real estate loans and servicing assets.

(3) *Source of funds.* (i) Each third-party purchaser pays for the eligible horizontal residual interest in cash at the closing of the securitization transaction.

(ii) No third-party purchaser obtains financing, directly or indirectly, for the purchase of such interest from any other person that is a party to, or an affiliate of a party to, the securitization transaction (including, but not limited to, the sponsor, depositor, or servicer other than a special servicer affiliated with the third-party purchaser), other than a person that is a party to the transaction solely by reason of being an investor.

(4) *Third-party review.* Each third-party purchaser conducts an independent review of the credit risk of each securitized asset prior to the sale of the asset-backed securities in the